

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DEREK HAIRSTON

:

Plaintiff,

v.

:

CIVIL ACTION

NO. 14-6810

GREEN TREE SERVICING LLC and  
POWERS, KIRN & ASSOCIATES LLC

:

Defendants.

**ORDER**

AND NOW, this 21<sup>st</sup> day of December, 2015, upon consideration of: Defendant Powers' Kirn & Associates' Motion to Dismiss (Doc. No. 9); Plaintiff's Motion Requesting Leave to Amend Complaint (Doc. No. 13); Defendant Green Tree Servicing LLC's Motion to Dismiss (Doc. No. 15); Plaintiff's Opposition to Motion to Dismiss (Doc. No. 16); Defendant Powers, Kirn & Associates, LLC's Response in Opposition to Plaintiff's Motion to Amend (Doc. No. 17); and, Defendant Green Tree Servicing LLC's Reply Memorandum (Doc. No. 15)<sup>1</sup>, it is hereby ORDERED as follows:

- (1) Defendant Powers' Motion to Dismiss is GRANTED in PART and DENIED in part;<sup>2</sup>

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<sup>1</sup> Contrary to the mandates of this Court's published Practices and Procedures, Defendant Green Tree filed a Reply without first seeking leave. See "Judge C. Darnell Jones II Chambers Policies and Procedures," at <http://www.paed.uscourts.gov>. However, for purposes of the instant ruling, this Court has exercised its discretion in considering Green Tree's submission.

<sup>2</sup> Inasmuch as Plaintiff filed a Motion for Leave to Amend in response to Defendant Powers' Motion to Dismiss, this Court considered the arguments set forth in said Defendant's motion when assessing the viability of certain claims. However, because Plaintiff removed and/or changed certain "Causes of Action" in response to the motion, various arguments contained therein were rendered moot.

- (2) Leave to Amend the Third Cause of Action contained within Plaintiff's proposed Amended Complaint is GRANTED as follows:
  - (a) The sole cause of action permitted via amendment shall be that portion of the proposed Third Cause of Action pertaining to attorney's fees and corporate advancement fees; and,
  - (b) Plaintiff shall file his Amended Complaint within thirty (30) days of this Order and properly serve same upon Defendants.
- (3) Leave to Amend Plaintiff's First, Second, Fourth, Fifth and Sixth Causes of Action is DENIED and said claims are DISMISSED as time-barred and/or futile; and
- (4) Defendant Green Tree's Motion to Dismiss is DENIED without prejudice as moot.

BY THE COURT:

/s/ C. Darnell Jones, II J.